

1. NH ("Child") was born on August 13, 2013. The child currently resides with her mother, CK ("Mother"), and Mother's husband, BK ("Stepfather"), at 1344 Four Mile Drive, Williamsport, Lycoming County, Pennsylvania. Mother and Stepfather have been married since September 10, 2017.

2. The Child's biological father is BH ("Father"). Father resides at 17 S. Main Street, Montgomery, Pennsylvania.

3. At the time of the Child's birth, Mother and Father were unmarried and Mother and the Child lived with Mother's mother.

4. Father saw the Child weekly for the first two months of the Child's life.

5. Father's contact with the child decreased to approximately one time per month through January of 2014.

6. Father's last contact with the Child was on Father's Day, 2014.

7. Father's last contact with Mother was via text on the Child's first birthday in August of 2014.

8. Father has never filed an action for custody in an attempt to establish or enforce his custodial rights to the Child.

9. Mother filed an action for child support, which was subsequently dismissed because Father lost his job prior to the conference.

10. Mother has never sought to reopen the child support case, and Father has not independently financially supported her in any way since the Child was a few months old.

11. Father has never sent cards or gifts to the Child for her birthday or holidays.

12. Mother had the same phone number for at least 3 years after Father's last contact with the Child and he did not reach out to her at that time.
13. Mother has a Facebook account but Father has never attempted to contact her using social media.
14. Father has never reached out to Mother's family members in an attempt to contact her or inquire about the Child.
15. Stepfather has been involved with the Child since she was 2 ½ years old.
16. Mother and Stepfather have a child together, who is the Child's half-sibling.
17. The Child calls Stepfather "Daddy."
18. Stepfather has a father/daughter relationship with the Child. He loves and supports the Child and treats her as his biological child.
19. Child has no relationship with Father. She is unaware that Stepfather is not her biological father.

Discussion

Mother and Stepfather argue that the basis for termination in this case may be found in 23 Pa.C.S. §2511(a)(1) and (a)(2), which provide as follows:

§2511. Grounds for Involuntary Termination

(a) GENERAL RULE.--The rights of a parent in regard to a child may be terminated after a petition filed on any of the following grounds:

- (1) The parent by conduct continuing for a period of at least six months immediately preceding the filing of the petition either has evidenced a settled purpose of relinquishing parental claim to a child or has refused or failed to perform parental duties.

- (2) The repeated and continued incapacity, abuse, neglect or refusal of the parent has caused the child to be without essential parental care, control or subsistence necessary for his physical or mental well-being and the conditions and causes of the incapacity, abuse, neglect or refusal cannot or will not be remedied by the parent.

A court may terminate parental rights under Section 2511(a)(1) where a parent demonstrates a settled purpose to relinquish parental claim to a child **or** fails to perform parental duties for at least six months prior to the filing of the termination petition. **In the Interest of C.S.**, 761 A.2d 1197, 1201 (Pa. Super. 2000). In the instant case, Father has demonstrated both. When determining whether to terminate the rights of a parent, the Court should consider the entire background of the case and not simply:

mechanically apply the six month statutory provision. The court must examine the individual circumstances of each case and consider all explanations offered by the parent facing termination of his . . . parental rights, to determine if the evidence, in light of the totality of the circumstances, clearly warrants the involuntary termination.

In re: B.N.M., 856 A.2d 847, 855 (Pa. Super. 2004), appeal denied, 582 Pa. 718, 872 A.2d 1200 (2005) citing **In re: D.J.S.**, 737 A.2d 283, 286 (Pa. Super. 1999).

In determining what constitutes parental duties, the Pennsylvania Supreme Court has said:

There is no simple or easy definition of parental duties. Parental duty is best understood in relation to the needs of a child. A child needs love, protection, guidance, and support. These needs, physical and emotional, cannot be met by a merely passive interest in the development of the child. Thus, this Court has held that the parental obligation is a positive duty which requires affirmative performance. This affirmative duty encompasses more than a financial obligation; it requires continuing interest in the child and a genuine effort to maintain communication and association with the child. Because a child needs more than a benefactor, parental duty requires that a parent "exert himself to take and maintain a place of importance in the child's life."

With these principles in mind, the question whether a parent has failed or refused

to perform parental duties must be analyzed in relation to the particular circumstances of the case. A finding of abandonment, which has been characterized as "one of the most severe steps the court can take," will not be predicated upon parental conduct which is reasonably explained or which resulted from circumstances beyond the parent's control. It may only result when a parent has failed to utilize all available resources to preserve the parental relationship.

In re: Burns, 379 A.2d 535, 540 (Pa. 1977)(citations omitted).

The Court finds as of the date of the filing of the Petition for Involuntary Termination of Parental Rights, Father had evidenced both a settled purpose of relinquishing parental claim to the Child and had failed to perform his parental duties for a period well in excess of six (6) months. Following the Child's birth, Father saw her weekly at most, and by the time she was a few months old Father was seeing the Child approximately once a month. Father's last in-person contact with the Child was more than 5 years ago, on Father's Day in 2014, and Child was under one year of age at the time. Father has not financially supported Mother and Child, nor has he sent the Child cards, letters, or gifts for birthdays or holidays.

A parent has an affirmative duty to be part of a child's life; Father has clearly not met this affirmative duty. Father has not even shown a passive interest in the Child for most of the Child's life. Father failed to file a custody action with the Court to establish or enforce his custodial rights. In fact, Father did not even bother to reach out to Mother or Mother's family members to inquire about the Child's health and well-being, or to attempt to arrange visits with the Child. Mother had the same phone number for at least three years after Father's last contact with the Child and has maintained a Facebook account that he could use to contact her. The Court finds Mother placed no obstacles in

Father's path which would have prevented him from exercising his parental rights, privileges, and obligations with regard to Child.

This Court further finds that Mother and Stepfather have clearly established that Father has evidenced a settled purpose of relinquishing parental claim to the Child and has refused or failed to perform parental duties for a period far in excess of six months. This settled purpose of relinquishment is especially apparent given the fact that, despite being properly served, Father failed to appear for the hearing on the Petition for Involuntary Termination.

As only one subsection of 23 Pa.C.S. §2511(a) must be established by clear and convincing evidence in order to proceed to an analysis under 23 Pa.C.S. §2511(b), and the Court has found that the statutory grounds for termination have been met pursuant to 23 Pa.C.S. §2511(a)(1), the Court will not address the averments that termination is also warranted under 23 Pa.C.S. §2511(a)(2).

As the statutory grounds for termination have been met, the Court must also consider the following:

23 Pa.C.S. § 2511(b) OTHER CONSIDERATIONS.—The Court in terminating the rights of a parent shall give primary consideration to the developmental, physical and emotional needs and welfare of the child. The rights of a parent shall not be terminated solely on the basis of environmental factors such as inadequate housing, furnishings, income, clothing and medical care if found to be beyond the control of the parent. With respect to any petition filed pursuant to subsection (a)(1), (6) or (8), the court shall not consider any efforts by the parent to remedy the conditions described therein which are first initiated subsequent to the giving of notice of the filing of the petition.

The Court must take into account whether a bond exists between the child and parent, and whether termination would destroy an existing, necessary and beneficial relationship. **In the Interest of C.S.**, supra, at 1202. When conducting a bonding

analysis, the Court is not required to use expert testimony. **In re: K.K.R.-S.**, 958 A.2d 529, 533 (Pa. Super. 2008) (citing **In re: I.A.C.**, 897 A.2d 1200, 1208-1209 (Pa. Super. 2006)). “Above all else . . . adequate consideration must be given to the needs and welfare of the child.” **In re: J.D.W.M.**, 810 A.2d 688, 690 (citing **In re: Child M.**, 681 A.2d 793 (Pa. Super. 1996), appeal denied, 546 Pa. 674, 686 A.2d 1307 (1996)). A parent’s own feelings of love and affection for a child do not prevent termination of parental rights. **In re: L.M.**, 923 A.2d 505, 512 (Pa. Super. 2007).

Before granting a petition to terminate parental rights, it is imperative that a trial court carefully consider the *intangible* dimension of the needs and welfare of a child--the love, comfort, security and closeness--entailed in a parent-child relationship, as well as the tangible dimension. Continuity of relationships is also important to a child, for whom severance of close parental ties is usually extremely painful. The trial court, in considering what situation would best serve the children’s needs and welfare, must examine the status of the natural parental bond to consider whether terminating the natural parents’ rights would destroy something in existence that is necessary and beneficial.

In the Interest of C.S., supra., at 1202 (citations omitted).

In the present case, it is clear that Child has no bond with Father. The Child refers to Mother’s Husband as “Dad.” Father has no contact with the Child since before the Child’s first birthday. Termination of Father’s rights would not destroy an existing necessary and beneficial relationship as there currently exists no relationship between Father and the Child. In fact, the Child is unaware that Stepfather is not her biological father. Child is bonded to Stepfather, who has been involved in her life since she was 2 ½ years old, and who is the only father-figure the Child would know. It is evident to the Court that Stepfather loves and cares for Child and treats her as his own. They, along with Mother and Stepfather’s child together, are an established family unit. Stepfather has stepped in and provided the love and support Child needs and has assumed the

parental responsibilities that Father has utterly failed to perform and has evidenced a settled purpose of relinquishing.

The Court is satisfied that both Mother and Stepfather understand the potential consequences of allowing Stepfather to adopt Child, and that termination Father's parental rights and allowing the adoption by Stepfather to proceed is in the best interest of the Child.

Conclusions of Law

1. The Court finds that CK and BK have established by clear and convincing evidence that BH's parental rights should be involuntarily terminated pursuant to 23 Pa.C.S. §2511(a)(1).

2. The Court finds that CK and BK have established by clear and convincing evidence that the developmental, physical and emotional needs and welfare of NH will best be served by termination of BH's parental rights.

Accordingly, the Court will enter the attached Decrees.

By the Court,

Joy Reynolds McCoy, Judge

Department of Human Services
Pennsylvania Adoption Information Registry
P.O. Box 4379
Harrisburg, PA 17105-17111
Telephone: 1-800-227-0225

Medical history information forms may also be obtained locally by contacting one of the following agencies:

1. County Children & Youth Social Service Agency
2. Any private licensed adoption agency
3. Register & Recorder's Office
4. Online at www.adoptpakids.org/Forms.aspx

By the Court,

Joy Reynolds McCoy, Judge